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EXAMINER

PATEL, DHIRUBHAI R

ART UNIT PAPER NUMBER

2831

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,691

Applicant(s)

BUEKERS ET AL.

Examiner

DHIRU R PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/24/03
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0704.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Part III DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a compression expandable plug recited in claim 1 must be shown or the feature(s) canceled from the claim(s). The examiner suggest showing reference number for a compression expandable plug . A proposed drawing correction or corrected drawings are required in reply to the office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

Applicant is responsible for showing reference number for claimed invention.

2. Applicant is required to submit a proposed drawing correction in reply to this office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

3. The disclosure is objected to because of the following informalities: the reference characters must be properly applied, no single reference character being used for two different parts or for a given part and a modification of such part. Such as in the specification on page 5 line 25, " plate 3" while on page 8 line 19, " gasket 3", and

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on page 7 line 21, " band 33" while on page 8 line 24, " slit 33". Applicant is responsible for providing separate reference number for each part disclosed in the specification. See MPEP § 608.01 (g) .

Applicant is responsible for reviewing the entire specification for each reference number and revise as required.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3-4, 6-30 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3 line 1, "means" is confusing because it is not clear that means is same as means being claimed in claim 2?. The examiner interpreted as same.

In claims 6, 9 , 20 and 28, use of the term " and/or" render the claim indefinite.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-16, 26 and 29-30 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kinnan (4,622,436).

Kinnan discloses:

Regarding claim 1, assembly of the device of Kinnan comprises the method steps of:

a method of sealing mini-tubes within an optical fibre duct using a compression-expandable plug, the method comprising providing lateral expansion of an elastomeric gasket of the compression-expandable plug to seal around the mini-tubes, the mini-tubes containing optical fibers (see column 7 lines 1-15 and column 8 lines 1-15).

Regarding claim 2, a compression-expandable plug comprising:

an elastomeric gasket 18 having longitudinal passages configured to be positioned around optical-fibre-containing mini-tubes 18a-18c in an optical fibre duct 14; and means 52 for longitudinally compressing the gasket thereby laterally expanding it to exert sealing pressure

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around the mini-tubes and between the mini-tubes and the duct (see fig 1-3, and the entire specification).

Regarding claim 3, considering 112 second paragraph, further comprising the means for limiting the longitudinal compression applied to the gasket to limit the sealing pressure to a level selected to limit damage to the optical fibers. It is noted that the assembly of Kinnan meet the structural limitations.

Regarding claim 4, wherein the means for longitudinally compressing comprises a nut 54 and a bolt 52 and wherein the means for limiting the longitudinal compression comprises a blind-ended thread in the nut (see column 4 lines 50-62).

Regarding claim 5, wherein the passages of the gasket include longitudinal slits 20 extending laterally to an exterior surface of the gasket configured to allow lateral insertion of the mini-tubes into the passages (see fig 1).

Regarding claim 6, considering 112 second paragraph, claim 6 is included in this rejection as best understood.

Regarding claim 7, wherein the gasket is marked 18d to indicate an end of the gasket to insert first into the duct 14 to orient the slits in the orientation opposite to the tightening orientation

(see figs 1-3). It is noted that the assembly of Kinnan meet the structural limitations.

Regarding claim 8, wherein the orientation opposite to the tightening orientation is anti-clockwise as viewed from outside the end of the duct into which the gasket is inserted (see figs 1-3). It is noted that the assembly of Kinnan meet the structural limitations.

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Kinnan discloses:

Regarding claim 9, considering to 112 second paragraph, as best understood, a sealing device for sealing an opening in an object between the object and at least one elongate article extending through the opening (see figs 1-3 and the entire specification), the sealing device comprising:

a pair of compression plates 36, 38; at least two deformable sealing elements 18 and 24 spaced apart from each other between the plates; a compression device 52, 54 arranged to compress the sealing elements by moving the plates towards each other to expand the sealing elements in a lateral direction with respect to a direction of movement of the plates such that each sealing element makes a respective sealing contact with the object and elongate article; and wherein the sealing elements are spaced apart from each other in the lateral direction, and a first of the sealing elements is located between the compression plates along a lateral periphery of the plates (see figs 1-3 and the entire specification).

Regarding claim 10, including the pair of compression plates, the at least two deformable sealing elements and the compression device (see figs 1-3 and the entire specification).

Regarding claim 11, wherein each compression plate includes at least one aperture, the apertures of the plates being in alignment and together providing a channel 18a-18c through the sealing device to allow an elongate article to extend through the device (see figs 1-3 and the entire specification).

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Regarding claim 12, further comprising at least one second sealing element located between the plates around the channel and configured to make a sealing contact with an elongate article extending through the channel (see figs 1-3 and the entire specification).

Regarding claim 13, further comprising a plurality of said channels 18a-18c, each of which has a respective second sealing element located therearound (see figs 1-3 and the entire specification).

Regarding claim 14, wherein at least one of the sealing elements comprises a tube 18a (see fig 1).

Regarding claim 15, wherein the tube has a length at least as great as its external diameter (see figs 1-3).

Regarding claim 16, wherein at least one of the sealing elements comprises at least one O-ring (see fig 1).

Regarding claim 26, wherein the compression plates are movable towards each other by means of the compression device 52, 54 such that when the plates are in a closest to each other position the sealing elements are laterally expanded by a preset amount (see figs 2-3).

It is noted that the assembly of Kinnan meet the structural limitations.

Regarding claim 29, wherein the sealing elements comprise a polymeric material (see column 2 lines 21-48).

Regarding claim 30, wherein the object comprises a housing that is attachable to an end of a duct to seal the duct (see figs 2-3 and the entire specification).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 17 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Kinnan (4,622,436).

Kinnan discloses:

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Regarding claim 17, Kinnan disclose all the features of the claimed invention as shown above, but fails to disclose at least one of the sealing elements comprises a plurality of O-rings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of O-rings, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

7. Claims 23-25 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Kinnan (4,622,436) in view of Wilkinson (4,267,401).

Kinnan discloses:

Regarding claims 23-25, Kinnan disclose all the features of the claimed invention as shown above, but fails to disclose wherein each sealing element is blocked by a removable blocking part or piece (for claim 25) that may be removed to allow an elongate article to extend through the sealing element (for claims 23 and 25), and wherein each blocking part is elongate and extends through at least one of the compression plates so that it may be removed from its respective sealing element without removing the sealing element from between the plates (for claim 24). Wilkinson teaches the use of a sealing element is blocked by a removable blocking part 46 that may be removed to allow an elongate article to extend through the sealing element, and wherein each blocking part is elongate and extends through at least one of the compression plates so that it may be removed from its respective sealing

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element without removing the sealing element from between the plates (see fig 1, column 4 lines 6-25) in order to provide a respective passage or passages for cables (see column 4 lines 5-15). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Kinnan with a removable blocking part or piece (for claims 23-25) in order to provide a respective passage or passages for cables.

Allowable Subject Matter

8. Claims 18-22 and 27-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of the allowability of claims 18-22, 27-28 are the inclusion therein, in combination as currently claimed, of the limitation of a support located between the compression plates and wherein the sealing elements are attached to the support (for claims 18-22), the sealing device includes an indicator that indicates when the compression plates have been moved towards each other by a predetermined distance to provide a preset lateral expansion of the sealing elements (for claims 27-28).

The previously listed limitation is neither disclosed nor taught by the prior art of record, alone or in combination.

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Other prior art cited

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Paullus , Dams, Dodd, Suhr, and Mignon disclose a gasket similar to applicant's claimed invention.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhuru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Dhuru Patel
Primary Examiner
Group Art Unit 2831
July 10, 2004

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Primary Examiner
7/10/04